

REMARKS

After entry of the instant Amendment, claims 1-4, 7-10, 12, 13, and 16-18 are pending in the instant application with claim 1 in independent form. Independent claim 1 is currently amended to incorporate the elements of allowable dependent claim 6 therein. Dependent claims 5, 11, and 14 were previously cancelled. Dependent claims 6 and 15 are presently cancelled. In particular, the elements of claim 6 were incorporated into independent claim 1, and the elements of claim 15 are identical to the elements of claim 6 (with claim 15 dependent from claim 2, whereas claim 6 depended directly from claim 1). No claims are presently added or cancelled.

Claims 1-4, 7-10, 12, 13, and 16-18 stand rejected under 35 USC §103(a) as being unpatentable over Morita et al. (PCT Pub. No. WO03/072656) in view of Kuwabara et al. (US Pre-Grant Pub. No. 2003/0010962). Claim 1 stands provisionally rejected under the judicially-created doctrine of obviousness-type double patenting over claim 5 of co-pending U.S. App. Serial No. 11/912,631. Dependent claims 6 and 15 are objected to as depending from a rejected base claim, but would otherwise be allowable if rewritten in independent form.

In view of the amendment of independent claim 1 to incorporate the elements of allowable claim 6 therein (and cancellation of claims 6 and 15), the Applicants respectfully submit that independent claim 1, as well as the claims that depend therefrom, is in condition for allowance, which allowance is respectfully requested.

As to the Obviousness-Type Double Patenting Rejection Over the Co-Pending ‘631 Application

The Applicants respectfully assert that in view of the guidelines set forth in MPEP 804(I)(B.)(1.), the provisional obviousness-type double patenting rejections should be withdrawn and the instant application should be allowed to continue to issuance without a Terminal Disclaimer. To explain, MPEP 804(I)(B.)(1.) directs that “[i]f a ‘provisional’ nonstatutory obviousness-type double patenting (ODP) rejection is the only rejection remaining in the earlier filed of the two pending applications, while the later-filed application is rejectable on other grounds, the examiner should withdraw that rejection and permit the earlier-filed application to issue as a patent without a terminal disclaimer.” The instant application was filed earlier than the pending ‘631 application. Specifically, the instant application was filed on January 12, 2007, while U.S. App. Serial No. 11/912,631 was filed on January 7, 2009. The ‘631 application is currently under final rejection. Therefore, the Examiner should permit the instant application to issue as a patent without a terminal disclaimer.

The Applicants respectfully submit that the instant claims are in condition for allowance and respectfully request such allowance. The Applicants respectfully submit that this Amendment After Final is filed timely with the appropriate fee for a one-month extension of time, and it is believed that no further fees are presently due. However, the Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 08-2789 in the name of Howard & Howard.

Respectfully submitted,

HOWARD & HOWARD ATTORNEYS, PLLC

April 16, 2010

Date

/Christopher S. Andrzejak/

Christopher S. Andrzejak, Registration No. 57,212

450 West Fourth Street

Royal Oak, MI 48067-2557

(248) 723-0438